Re: 2017 Year-End Tax Planning – Businesses

Dear Client:

As year-end approaches, each business should consider the many opportunities that might be lost if year-end tax planning is not explored. A business may want to consider several general strategies, such as use of traditional timing techniques for delaying income recognition and accelerating deductions. A business should also consider customized strategies tailored to its particular situations.

For the 2017 tax year, taxpayers have relative clarity with respect to available credits and deductions. With the exception of a handful of industry specific tax credits and deductions that expired at the end of 2016, most temporary credits and deductions were permanently extended by the Protecting Americans from Tax Hikes Act of 2015 (PATH Act). A few others were extended for 5-years through 2019. Far less clear, however, is the possibility of the enactment of tax reform legislation by year's end. The final scope of such legislation, if enacted, remains unknown. At a minimum, tax reform legislation is expected to result in a reduction of corporate and individual tax rates. However, whether such reductions would apply to 2017, as well as to 2018, will remain uncertain, likely until late November or early December. Nevertheless, much of the preparation for these contingencies should begin now.

The last few months of the year provide an important "last chance" to change the final course of your businesses tax year before it closes for good. Among the reasons why year-end tax planning toward the end of 2017 may be particularly fruitful are the following:

Business credits and deductions. Many business-related tax credits and deductions that were scheduled to expire after 2015, were permanently extended by the PATH Act. Others were only extended one year and are not available for the 2017 filing season unless extender legislation is enacted. A few were extended for a five-year period. Taking inventory of what deductions and credits your business has been using and whether they remain available or will be removed in the near future can significantly impact your bottom line. For example, one major tax deduction for many businesses is bonus depreciation. Property placed in service in 2017 is eligible for bonus depreciation at a 50% rate. The rate is reduced to 40% in 2018 and 30% in 2019. Bonus depreciation expires after 2019. Talk of "full expensing" under tax reform also belongs in this mix.

Repair regulations. In 2013, the IRS issued final tangible property regulations (a.k.a., the "repair regs") on accounting for costs to acquire, repair and improve tangible property. The repair regs impact virtually all businesses by providing the rules for distinguishing between capital expenditures and deductible repairs or other types of deductible expenses. While taxpayers were expected to file change in accounting methods using the automatic consent procedure to retroactively comply with the repair regs for their first tax year beginning in 2014, taxpayers that are not yet subject to a capitalization audit may continue to file these accounting method changes using certain automatic consent procedures.

Payroll tax credit for small businesses. The IRS issued guidance in early 2017 explaining how a qualifying small business may elect to claim a payroll tax credit of up to $250,000 in lieu of the research credit. This election is useful to a business with no income tax liability against which to claim the research credit. The business must have less than $5 million of gross receipts in the election year and must not have had gross receipts in any tax year that precedes the five-tax-year period that ends with the tax year of the election.

This new option was available for the first time to any eligible small business for their 2016 tax year. However, those who already filed their 2016 return still have time to choose this option. Under a special rule for tax-year 2016, a small business that failed to choose this option and still wishes to do so, can still make the election by filing an amended return by December 31, 2017.

Business use of vehicles. Several year-end strategies involving both business expense deductions for vehicles and the fringe-benefit use of vehicles by employees require an awareness of certain rates and dollar caps that change annually. Changes affecting 2017 include a drop in the standard business mileage allowance rate to 53.5 cents-per-mile, down from 54 cents-per-mile for 2016. The maximum depreciation limits for passenger automobiles first placed in service during the 2017 calendar year remain the same as 2016.

"Gig" economy. Approximately 2.5 million taxpayers are now earning income each month in the "gig" economy, also commonly referred to as the "sharing" or "on-demand" economy. Participation continues to swell and is expected to double by 2020. In recognition of the increasing importance of the gig economy, the IRS opened a "Sharing Economy Tax Center" this year on its website. It also is reportedly stepping up its audit coverage of taxpayers working in the "gig" economy.

Affordable Care Act. Despite Congressional attempts to repeal the Affordable Care Act (ACA), the basic structure of the ACA for businesses, both large and small, generally remains intact. If an employer is an applicable large employer (ALE) based on the previous year's employee head-count, employer shared responsibility provisions and employer information reporting provisions are triggered. Small businesses, however, are not unaffected by the ACA and should take the ACA into account in year-end planning. Some incentives in the ACA could help maximize tax savings for small businesses. Planning now, both to qualify for 2017 incentives and to meet 2018 compliance requirements, is advisable.

Tax reform on the horizon. President Trump ran on a platform of consolidating and reducing individual tax rates. The Trump/GOP "framework for tax reform," released in late September, would reduce the maximum corporate rate to 20 percent, eliminate the federal estate tax and the alternative minimum tax (AMT), as well as limit the maximum tax rate applied to the business income of small and family-owned businesses conducted as sole proprietorships, partnerships and S corporations to 25 percent. It will likely remain unclear until late November or early December whether tax reform will happen before the end of 2017, and if so, whether the law changes will be temporary or permanent and whether they will be prospective or retroactive.

These are just some of the considerations that can yield tax savings for your business as year-end 2017 approaches. Please feel free to contact our offices so we can discuss specific 2017 year-end strategies that might be particularly worthwhile for your business.

Sincerely,

Michael d Daniels